



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Fritig *et al.*

Serial No. : 10/633,840 Examiner : Not Yet Assigned

Filed : August 4, 2003 Group Art Unit: Not Yet Assigned

For : INDUCIBLE COMTII PROMOTER, CHIMERA GENE
CONTAINING SAME AND TRANSFORMED PLANTS

Customer No.: 21003

INFORMATION DISCLOSURE STATEMENT

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

October 30, 2003

Date of Deposit

Rochelle K. Seide, Ph.D.

Attorney Name

32,300

Patent Reg. No.

Rochelle K. Seide

Signature

October 30, 2003

Date of Signature

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Examiner the documents listed on the attached PTO Form 1449 and respectfully request that the documents listed on the PTO Form 1449 and listed hereinbelow in reverse chronological order be considered by the Examiner and made of record in the above-captioned application. Copies of the cited references are not enclosed since they were either transmitted to the United States Patent and Trademark Office in parent application

United States Ser. No. 09/937,204 or cited by the Examiner in the prosecution of the parent case.

1. United States Patent No. 6,362,396, by Chaubet *et al*, issued March 26, 2002, and entitled "CHIMERIC GENES FOR THE TRANSFORMATION OF PLANTS." – English Language equivalent of EP 0 507 698.
2. United States Patent No. 6,376,234, by Grimsley *et al*, issued April 23, 2002, and entitled "METHOD OF INSERTING VIRAL DNA INTO PLANT MATERIAL." – English Language equivalent of EP 0 267 159.
3. United States Patent No. 6,313,282, by Atanassova *et al*, issued November 6, 2001, and entitled "ISOLATED DNA SEQUENCE WHICH CAN SERVE AS TERMINATOR REGION IN A CHIMERIC GENE CAPABLE OF BEING USED FOR THE TRANSFORMATION OF PLANTS." – English Language equivalent of EP 0 633 317 A1.
4. United States Patent No. 6,331,522, by Bulet *et al*, issued December 18, 2001, and entitled "ANTIBACTERIAL AND ANTIFUNGAL PEPTIDE." – English Language equivalent of WO 97/30082.
5. United States Patent No. 6,037,526, by Grimsley *et al*, issued March 14, 2000, and entitled "METHOD OF INSERTING VIRAL DNA INTO PLANT MATERIAL." – English Language equivalent of EP 0 267 159.
6. United States Patent No. 6,127,336, by Bulet *et al*., issued October 3, 2000, and entitled "ANTIBACTERIAL AND ANTIFUNGAL PEPTIDE." – English Language equivalent of WO 97/30082.
7. International Patent Application PCT/FR98/01462, by Rhone-Poulenc Agro, filed 8 July 1998, published as WO 99/02717 on 21 January 1999, and entitled "CHIMERIC GENE CODING FOR DROSOMICINE, VECTOR CONTAINING

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8. International Patent Application PCT/EP98/04988, by Vlaams Interuniversitair Instituut Voor Biotechnologie, filed 27 July 1998, published as WO 99/09188 on 25 February 1999, and entitled "TISSUE-SPECIFIC POPLAR PROMOTERS."
9. International Patent Application PCT/FR98/01814, by Rhone-Poulenc Agro, filed 18 August 1998, published as WO 99/09189 on 25 February 1999, and entitled "GENE CODING FOR ANDOCTONINE, VECTOR CONTAINING SAME AND TRANSFORMED DISEASE-RESISTANT PLANTS OBTAINED."
10. Keller H, Pamboukdjian N, Ponchet M, Poupet A, Delon R, Verrier JL, Roby D, Ricci P. Pathogen-induced elicitor production in transgenic tobacco generates a hypersensitive response and nonspecific disease resistance. *Plant Cell* 1999 Feb;11(2):223-35.
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12. United States Patent No. 5,866,776, by Marie de Wit, issued February 2, 1999, and entitled "METHODS FOR THE PROTECTION OF PLANTS AGAINST PATHOGENS."
13. United States Patent No. 5,981,843, by Chappell *et al.*, issued November 9, 1999, and entitled ELICITIN-MEDIATED PLANT RESISTANCE."
14. Chen C. *Populus trichocarpa* CCoAOMT2 gene, exon 1 to exon 5. EMBL Accession Number AJ 223620. Submitted February 10, 1998.

15. International Patent Application PCT/US97/07657, by Dowelanco, filed 5 May 1997, published as WO 98/08932 on 5 March 1998, and entitled "INSECTICIDAL PROTEIN TOXINS FROM *PHOTORHABDUS*."
16. Lee JE, Kleinhofs A, Graner A, Wegener S, Parthier B, Lobler M. Genomic sequence and mapping of a methyljasmonate-induced O-methyltransferase from barley (*Hordeum vulgare* L.). Chemical Abstracts Vol. 128, No. 23, Abstract No. 279382, June 8, 1998.
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19. International Patent Application PCT/GB98/01000, by The Minister of Agriculture Fisheries and Food in Her Britannic Majesty's Government of the United Kingdom of Great Britain and Northern Ireland, filed 3 April 1998, published as WO 98/45445 on 15 October 1998, and entitled "INDUCIBLE PLANT PROMOTERS."
20. International Patent Application PCT/US98/07178, by Rhone-Poulenc Agro, filed 9 April 1998, published as WO 98/45460 on 15 October 1998, and entitled "A SUNFLOWER ALBUMIN 5' REGULATORY REGION FOR THE MODIFICATION OF PLANT SEED LIPID COMPOSITION."
21. International Patent Application PCT/US98/07179, by Rhone-Poulenc Agro, filed 9 April 1998, published as WO 98/45461 on 15 October 1998, and entitled "AN

OLEOSIN 5' REGULATORY REGION FOR THE MODIFICATION OF
PLANT SEED LIPID COMPOSITION."

22. United States Patent No. 5,792,930 by Chaubet *et al*, issued August 11, 1998, and entitled "CHIMERIC GENES FOR THE TRANSFORMATION OF PLANTS." – ENGLISH EQUIVALENT OF EP 0 507 698.
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26. International Patent Application PCT/US96/18003, by Wisconsin Alumni Research Foundation, filed 6 November 1996, published as WO 97/17432 on 15 May 1997, and entitled "INSECTICIDAL PROTEIN TOXINS FROM *PHOTORHABDUS*."
27. International Patent Application PCT/FR97/00295, by Rhone-Poulenc Agrochimie, filed 17 February 1997, published as WO 97/30082 on 21 August 1997, and entitled "ANTIFUNGIC AND ANTIBACTERIAL PEPTIDE."
28. International Patent Application PCT/US97/06180, by Pioneer Hi-Bred International, Inc., filed 27 April 1997, published as WO 97/41239 on 6

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31. United States Patent No. 5,670,349, by Cramer *et al.*, issued September 23, 1997, and entitled "HMG2 PROMOTER EXPRESSION SYSTEM AND POST-HARVEST PRODUCTION OF GENE PRODUCTS IN PLANTS AND PLANT CELL CULTURES."
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38. United States Patent No. 5,489,520, by Adams *et al.*, issued February 6, 1996, and entitled "PROCESS OF PRODUCING FERTILE TRANSGENIC *ZEA MAYS* PLANTS AND PROGENY COMPRISING A GENE ENCODING PHOSPHINOTHRICIN ACETYL TRANSFERASE."
39. United States Patent No. 5,491,288, by Chaubet *et al.*, issued February 13, 1996, and entitled "CHIMERIC GENE COMPRISING THE ARABIDOPSIS HISTONE H4 PROMOTER FOR THE TRANSFORMATION OF PLANTS." – English Language equivalent of EP 0 507 698.
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42. United States Patent No. 5,538,877, by Lundquist *et al.*, issued July 23, 1996, and entitled "METHOD FOR PREPARING FERTILE TRANSGENIC CORN PLANTS."

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44. United States Patent No. 5,565,346, by Facciotti, issued October 15, 1996, and entitled "TRANSFORMATION AND REGENERATION SYSTEM FOR LEGUMES."
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47. European Patent Application No. 94420177.1, by Rhone-Poulenc Agrochimie, filed 23 June 1994, published as EP 0 633 317 A1 on 11 January 1995, and entitled "SEQUENCE D'ADN ISOLÉE POUVANT SERVIR DE ZONE TERMINATRICE DANS UN GÈNE CHIMÈRE UTILISABLE POUR LA TRANSFORMATION DES PLANTES."
48. European Patent Application No. 94925611.9, by Japan Tobacco, Inc., filed 9 January 1994, published as EP 0 672 752 A1 on 20 September 1995, and entitled "METHOD OF TRANSFORMING MONOCOTYLEDON BY USING SCUTELLUM OF IMMATURE EMBRYO."
49. International Patent Application PCT/US94/08722, by Virginia Tech Intellectual Properties, Inc., filed 2 August 1994, published as WO 95/03690 on 9 February 1995, and entitled "HMG2 PROMOTER EXPRESSION SYSTEM AND POST-

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51. International Patent Application PCT/US95/05545, by E. I. Du Pont de Nemours and Company, filed 12 May 1995, published as WO 95/31554 on 23 November 1995, and entitled "NUCLEIC ACID FRAGMENTS, CHIMERIC GENES AND METHODS FOR INCREASING THE METHIONINE CONTENT OF THE SEEDS OF PLANTS."
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55. United States Patent No. 5,478,744, by Sanford *et al.*, issued December 26, 1995, and entitled "METHOD FOR TRANSPORTING SUBSTANCES INTO LIVING CELLS AND TISSUES AND APPARATUS THEREFOR."

56. European Patent Application No. 93914958.9, by Japan Tobacco, Inc., filed 7 June 1993, published as EP 0 604 662 A1 on 6 July 1994, and entitled "METHOD OF TRANSFORMING MONOCOTYLEDON."
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73. United States Patent No. 5,179,022, by Sanford *et al.*, issued January 12, 1993, and entitled "BIOLISTIC APPARATUS FOR DELIVERING SUBSTANCES INTO CELLS AND TISSUES IN A NON-LETHAL MANNER."
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75. United States Patent No. 5,204,253, by Sanford *et al.*, issued April 20, 1993, and entitled "METHOD AND APPARATUS FOR INTRODUCING BIOLOGICAL SUBSTANCES INTO LIVING CELLS."
76. European Patent Application No. 91310374.3, by Pioneer Hi-Bred International, Inc., filed 11 November 1991, published as EP 0 486 233 B1 on 20 May 1992, and entitled "PLANT TRANSFORMATION METHOD USING AGROBACTERIUM SPECIES."
77. European Patent Application No. 91310375.0, by Pioneer Hi-Bred International, Inc., filed 11 November 1991, published as EP 0 486 234 B1 on 20 May 1992, and entitled "PLANT TRANSFORMATION METHOD USING AGROBACTERIUM SPECIES."
78. European Patent Application No. 92420065.2, by Rhone-Poulenc Agrochimie, filed 4 March 1992, published as EP 0 507 698 A1 on 7 October 1992, and entitled "PROMOTEURS D'HISTONE."
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83. International Patent Application PCT/US90/04462, by DeKalb Plant Genetics, filed 8 August 1990, published as WO 91/02071 on 21 February 1991, and entitled "METHODS AND COMPOSITIONS FOR THE PRODUCTION OF STABLY TRANSFORMED, FERTILE MONOCOT PLANTS AND CELLS THEREOF."
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89. United States Patent No. 4,945,050, by Sanford *et al.*, issued July 31, 1990, and entitled "METHOD FOR TRANSPORTING SUBSTANCES INTO LIVING CELLS AND TISSUES AND APPARATUS THEREFOR."
90. European Patent Application No. 87306739.1, by Calgene LLC, filed 30 July 1987, published as EP 0 255 378 B2 on 3 February 1988, and entitled "SEED SPECIFIC TRANSCRIPTIONAL REGULATION."
91. European Patent Application No. 87810628.5, by Lubrizol Genetics, Inc., filed 2 November 1987, published as EP 0 267 159 A1 on 11 May 1988, and entitled "VERFAHREN ZUR GENETISCHEN MODIFIKATION MONOKOTYLER PFLANZEN."
92. United Kingdom Patent Application No. 8725852, by Jefferson, filed 4 November 1987, published as GB 2 197 653 A on 25 May 1988, and entitled "GENE FUSION COMPRISING β -GLUCURONIDASE."
93. European Patent Application No. 87400544.0, by Plant Genetic Systems N. V., filed 11 March 1987, published as EP 0 242 246 B1 on 21 October 1987, and entitled "PLANT CELLS RESISTANT TO GLUTAMINE SYNTHETASE INHIBITORS, MADE BY GENETIC ENGINEERING."
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entitled "PLANT CELLS RESISTANT TO GLUTAMINE SYNTHETASE INHIBITORS, MADE BY GENETIC ENGINEERING."

95. International Patent Application PCT/GB87/00390, by Diatech Limited, filed 4 June 1987, published as WO 87/07644 on 17 December 1987, and entitled "TRANSLATION OF mRNA."
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97. United States Patent No. 4,536,475, by Anderson, issued August 20, 1985, and entitled "PLANT VECTOR."
98. United States Patent No. 4,459,355, by Cello *et al.*, issued July 10, 1984, and entitled "METHOD FOR TRANSFORMING PLANT CELLS."
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This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application and within three months of the filing date of the above-identified application. Therefore, Applicants do not believe that any fee is due in connection with the submission of this paper.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rochelle K. Seide", is written over a horizontal line.

Rochelle K. Seide, Ph.D.

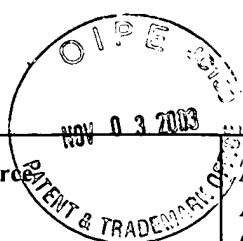
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Enclosures

Form PTO-1449 U.S. Department of Commerce
(REV. 2-82) Patent and Trademark Office



Atty. Docket No.
A34638-PCT-USA-I
(072667.0189)

Serial No.
10/633,840

**INFORMATION DISCLOSURE STATEMENT
BY APPLICANT**
(Use several sheets if necessary)

Applicant
Fritig *et al.*

Filing Date
August 4, 2003

Group
Not Yet Assigned

U.S. PATENT DOCUMENTS

*Exam. Init.	Document No.	Date	Name	Class	Subclass	Filing Date if Appropriate
	6 3 6 2 3 9 6	03/26/02	Chaubet <i>et al.</i>			
	6 3 7 6 2 3 4	04/23/02	Grimsley <i>et al.</i>			
	6 3 1 3 2 8 2	11/06/01	Atanassova <i>et al.</i>			
	6 3 3 1 5 2 2	12/18/01	Bulet <i>et al.</i>			
	6 0 3 7 5 2 6	03/14/00	Grimsley <i>et al.</i>			
	6 1 2 7 3 3 6	10/03/00	Bulet <i>et al.</i>			
	5 8 6 6 7 6 6	02/02/99	De Wit			
	5 9 8 1 8 4 3	11/09/99	Chappell <i>et al.</i>			
	5 7 9 2 9 3 0	08/11/98	Chaubet <i>et al.</i>			
	5 6 4 1 8 7 6	06/24/97	McElroy <i>et al.</i>			
	5 6 7 0 3 4 9	09/23/97	Cramer <i>et al.</i>			
	5 6 8 9 0 5 6	11/18/97	Cramer <i>et al.</i>			
	5 4 8 4 9 5 6	01/16/96	Lundquist <i>et al.</i>			
	5 4 8 9 5 2 0	02/06/96	Adams <i>et al.</i>			
	5 4 9 1 2 8 8	02/13/96	Chaubet <i>et al.</i>			
	5 5 0 8 4 6 8	04/16/96	Lundquist <i>et al.</i>			
	5 5 1 0 3 1 8	04/23/96	Patel <i>et al.</i>			
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	5 5 6 5 3 4 6	10/15/96	Facciotti			
	5 5 6 9 5 9 7	10/29/96	Grimsley <i>et al.</i>			
	5 4 0 5 7 6 5	04/11/95	Vasil <i>et al.</i>			

Examiner

Date Considered

* Examiner: Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not conformance and not considered. Include copy of this form with next communication to applicant.

Form PTO-1449 U.S. Department of Commerce
(REV. 2-82) Patent and Trademark Office

Atty. Docket No.
A34638-PCT-USA-I
(072667.0189)

Serial No.
10/633,840

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Applicant
Fritig *et al.*

Filing Date
August 4, 2003

Group
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		5	4	6	4	7	6	3	11/07/05	Schilperoort <i>et al.</i>			
		5	4	7	8	7	4	4	12/26/95	Sanford <i>et al.</i>			
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		4	5	3	6	4	7	5	08/20/85	Anderson <i>et al.</i>			
		4	4	5	9	3	5	5	07/10/84	Cello <i>et al.</i>			

FOREIGN PATENT DOCUMENT

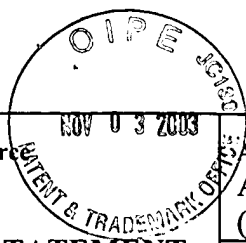
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Examiner

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Atty. Docket No.
A34638-PCT-USA-I
(072667.0189)

Serial No.
10/633,840

**INFORMATION DISCLOSURE STATEMENT
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(Use several sheets if necessary)

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		8	7	0	7	6	4	4	17/12/87	WIPO				

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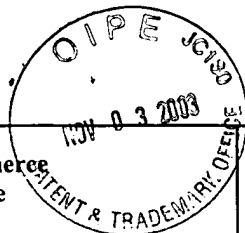
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Kauffmann S, Baillieul F, Genetet I, Kopp M, Fritig B. Two proteins secreted by *Phytophthora megasperma* elicit and defence-related responses in tobacco. In Mechanisms of Plant Defense Responses. B. Fritig and M. Legrand, eds. Dordrecht: Kluwer Academic Publishers, pp. 140-143, 1993.

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